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David J. Gaskey Carison, Gaskey & Olds, PC 400 West Maple Road Suite #350 Birmingham, MI 48009			SHIFERAW, ELENI A	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARCUS WONG

Appeal 2008-0705
Application 09/827,226
Technology Center 2100

Decided: June 27, 2008

Before JAMES D. THOMAS, JOSEPH L. DIXON, and
ST. JOHN COURtenay III, *Administrative Patent Judges*.

THOMAS, J., *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Examiner having twice rejected claims 21 through 40. We have jurisdiction under 35 U.S.C. § 6(b).

As best representative of the disclosed and claimed invention, independent claim 21 is reproduced below:

21. A method of providing secure communications between a first wireless unit that uses a first session key and a second wireless unit that uses a second session key, the method comprising:

generating a common key value as a function of at least a portion of at least one of the first session key or the second session key; and

providing the common key value to the first wireless unit for use in secure communications between the first wireless unit and the second wireless unit having the common key value.

The following reference is relied on by the Examiner:

Min-Shiang Hwang, *Dynamic Participation in a Secure Conference Scheme for Mobile Communications*, IEEE Transactions on Vehicular Technology, vol. 48, no. 5, 1469-1474 (1999).

Claims 21 through 40, all claims on appeal, stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hwang.¹

Rather than repeat the positions of the Appellant and the Examiner, reference is made to the Brief and Reply Brief for the Appellant's positions, and to the Answer for the Examiner's positions.

OPINION

For the reasons set forth by the Examiner in the Answer, as expanded upon here, we sustain the rejection of claims 21 through 40 under 35 U.S.C. § 102. Pages 4 and 5 of the principal Brief do not argue independent claims 21 and 33, but appear to argue common features of each of them. No arguments are presented in this appeal as to any dependent claim on appeal.

Essentially, Appellant's basic position in the Brief and Reply Brief is that Hwang does not disclose that a common key value is generated as a function of at least a portion of a session key value associated with a wireless unit. According to the nature of the actual subject matter recited in

¹ An additional rejection under 35 U.S.C. § 102 of independent claims 21 and 33 only on the basis of another Hwang reference was withdrawn by the Examiner at page 10 of the Answer.

representative independent claim 21 on appeal, the claim does not require that the first session key be different from the second session key as they relate to respective first and second wireless units. Therefore, the nature of the scope of the claim encompasses the situation where they could be identical. Thus, the generation of the common key value as a function of at least a portion of at least one of these key values could yield the same key. Additionally, the mere recitation that the common key value based upon a function of at least a portion of at least one of the first or second session keys includes the capability of being based upon all of or the entire portion of any one of these session keys.

Based on this claim analysis as well as the views expressed by the Examiner in the statement of rejection in the Answer and the slightly more expanded views at pages 8 and 9 of the Answer, we agree with the Examiner. From our review of topic II. beginning at the first column of page 1470 to the end of the first column at page 1471, each terminal T has its own respective session [encryption] key-decryption key based upon certain random numbers. The methodology of generating the common secret session key CK (the claimed common key value) in step 9 at column 1 of page 1471 appears to also be derived in part from the same random numbers as explained in the paragraph following step 9 (that the Examiner relies on and identifies as lines 19 through 24 of that column). When these teachings are considered in light of how the actual individual session keys are generated for each terminal T, the common key value according to the claim is generated “as a function of” at least a part of at least one of the first or second session keys as required by both claims 21 and 33 on appeal. The discussion in the paragraph bridging pages 1473 and 1474 of Hwang

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indicates that the same encrypted CK value is generated for each participant or terminal. Appellant's positions in the Brief and Reply Brief appear to us to give an incomplete consideration of the full teaching value of Hwang to the extent it relates to the very broadly claimed and argued feature.

In view of the foregoing, the decision of the Examiner rejecting claims 21 through 40 under 35 U.S.C. § 102 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

tdl

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